

### Remarks

#### Status of the Claims

Claims 25-32, 35-38, 47, and 48 are pending in this application. Claims 1-24, 33, 34, 39, and 40-46 have been canceled without prejudice or disclaimer. Claim 27 has been rewritten in independent form and claim 47 has been amended to correct the typographic error noted in the outstanding Action. Claims 25, 27, 32, and 35 are independent claims. Reconsideration of this application, as amended, is respectfully requested.

#### Substitute Specification

As noted above, it is respectfully submitted that the Substitute Specification includes no new matter and that this Substitute Specification includes the same changes as are indicated in the marked-up copy of the original specification showing additions and deletions.

#### Priority under 35 U.S.C. § 119

Applicants thank the Examiner for acknowledging Applicants' claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified priority document.

#### Information Disclosure Citation

Applicants thank the Examiner for considering the reference(s) supplied with the Information Disclosure Statement filed November 10, 2009, and for providing Applicants with a copy of the PTO-SB08 form filed therewith indicating consideration of the cited references.

#### Restriction Requirement

The Examiner has made the Restriction Requirement final, and has withdrawn claims 33, 34, 37, and 40-45 from further consideration. As noted above, withdrawn claims 33, 34, and 40-45 have been canceled without prejudice or disclaimer and may be included in a divisional application or divisional applications at a future date.

The withdrawal of claim 37 is traversed as being clearly improper and as also rendering this Action also clearly improper.

The Restriction Requirement dated July 15, 2009, was based upon lack of unity of invention under MPEP §1850 and the PCT Rules noted in this section. This PCT based Requirement included no allegation of any election of species based upon chapter 800 of the

MPEP. Accordingly the attempt to withdraw already acted upon claim 37 from consideration based upon this claim “being drawn to non-elected species IV” is clearly erroneous and has no basis in the Restriction Requirement dated July 15, 2009, MPEP §1850 and the PCT unity of invention Rules that must be followed as to any requirement in a 35 U.S.C. § 371 Application. In this last respect, it is noted that claim 37 is a dependent claim and that PCT rule 13.4 (that is treated in MPEP § 1850 as to applicable unity of invention rules) establishes that “a reasonable number of dependent claims, claiming specific forms of the invention claimed in an independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention” are to be permitted. As noted above, it is MPEP §1850 and the PCT unity of invention Rules that must be followed, not chapter 800 of the MPEP, relative to any 35 U.S.C. § 371 Application. Accordingly, the withdrawal of claim 37 is clearly improper as a violation of controlling PCT Rules noted in MPEP §1850.

#### **Request For Withdrawal Of Improper Office Action**

It is respectfully submitted that the failure to treat claim 37 on the merits as an elected claim in the outstanding Action is an improper violation of the above noted requirements as to unity of invention practice and associated PCT Rule 13.4 that the USPTO must follow.

Accordingly, the present improper Action that fails to treat elected dependent claim 37 on the merits should be withdrawn and replaced by an Action that properly considers dependent claim 37 on the merits.

#### **Specification Objection**

The outstanding Action again objects to the specification as including improper references to particular claim numbers. Applicants responded to this objection in the Amendment filed February 18, 2010, by noting that the Substitute Specification included with the Preliminary Amendment filed August 8, 2006, corrected this problem. The present Action now informs Applicants that the Substitute Specification that was introduced as part of this Preliminary Amendment was not entered.

While MPEP § 714.20(A) permits the entry of claim amendments while denying entry of a substitute specification, it notes that “[t]he application as thus amended is acted on when reached in its turn, the applicant being advised that the substitute specification has not been

entered (emphasis added). The restriction requirement dated July 15, 2009 and the first Action on the merits of November 9, 2009, were both improper as they failed to comply with the notification requirement of MPEP § 714.20(A). The present outstanding Action does note that the Substitute Specification was not entered but fails to provide any notice as to the reason for this denial. As the Substitute Specification and a marked-up copy of the original specification showing additions and deletions are believed to completely comply with the rules, and as adequate notice of any deficiency therein has not been provided to the Applicants, these papers are being resubmitted herewith. In light of the fact that the resubmitted Substitute Specification does not include internal references to claim numbers, withdrawal of this objection is respectfully requested.

#### **Amendment Entry**

As claim 27 has been rewritten in independent form and as claim 47 has been amended to correct the typographic error in the manner noted in the outstanding Action, entry of the present amendment is respectfully submitted to be in order.

#### **Claim Objection**

Claim 47 stands objected to as containing a typographical error (“diving” should be -- driving--). As the suggested change is included in the amendment to claim 47, withdrawal of this objection is respectfully requested.

#### **Rejection under 35 U.S.C. § 112, 1st Paragraph**

Claim 27 stands rejected under the Written Description Requirement of the first paragraph of 35 U.S.C. § 112. This rejection is respectfully traversed.

The Examiner states that the “limitation that the air flows along a bottom portion of the cleaning case is not supported by the original application.”

However, at least page 25, lines 2-6, of the original specification considered with the showings of originally filed Figs. 3 and 8 provide clear support for this limitation. In this regard the nozzle 30 is shown by Fig. 3 to direct compressed air at an angle to the bottom portion 25. Page 25, lines 2-6, of the original specification note that a “portion of the dust falls upon the upper surface of the receiving member 25” and that this “dust fallen on the upper surface of

the receiving member 25 is subsequently blown away towards the discharge duct 31 due to the compressed air injected from the nozzle member 30.” Clearly, for air flow from nozzle 30 to blow fallen dust on the bottom receiving member portion 25 toward the discharge duct 31, this air flow has to be along this bottom receiving member portion 25 as illustrated by the air flow arrows in related Fig. 8. It is well established that disclosure of a device, like nozzle 30, that inherently performs a function, like the disclosed sweeping the dust from the bottom portion 25 to the discharge duct 31 by air flow that must be along the bottom, necessarily discloses this inherently required air flow even though the specification says nothing explicit about this required air flow. See, e.g., *In re Reynolds*, 443 F.2d 384, 170 USPQ 94 (CCPA 1971) and *In re Smythe*, 480 F. 2d 1376, 178 USPQ 279 (CCPA 1973). Also note the arrows from nozzle 30c of Fig. 8 that show air flow arrows from the nozzle member along the bottom member. In this last regard, it is well established that possession of an invention can be shown by the disclosure of drawings. See, e.g., *Vas-Cath*, 935 F.2d 1555, 1565, 19 USPQ2d 1111, 1118 (“drawings alone may provide a ‘written description’ of an invention as required by Sec. 112\*”); *In re Wolfensperger*, 302 F.2d 950, 133 USPQ 537 (CCPA 1962) (the drawings of applicant’s specification provided sufficient written descriptive support for the claim limitation at issue); and *Autogiro Co. of America v. United States*, 384 F.2d 391, 398, 155 USPQ 697, 703 (Ct. Cl. 1967) (“In those instances where a visual representation can flesh out words, drawings may be used in the same manner and with the same limitations as the specification.”).

Applicants respectfully submit that claim 27, as amended, complies with the written description requirement of 35 U.S.C § 112, first paragraph. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

### **Rejections under 35 U.S.C. § 103**

#### **A. Claims 25, 26, 28, and 31**

Item 7 on page 4 of the outstanding Action presents a rejection of claims 25-28 and 31, under 35 U.S.C. § 103(a) as being unpatentable over Kiefer (U.S. Patent No. 3,986,223) in view of Ernst et al. (U.S. Patent No. 6,543,078, hereinafter “Ernst”) and Clarke et al. (U.S. Patent No. 6,099,691, hereinafter “Clarke”). This rejection is respectfully traversed.

Turning to independent claim 25, this claim requires, among other things, “a brush having bristles that are at least partly surrounded by walls forming a cleaning case, the bristles

being dimensioned to extend from a brush support portion so as to contact just the edge portion of said board when the edge portion of the board is positioned for cleaning" and "a discharge opening in a wall of the cleaning case that receives dust removed by the bristles from the edge portion of the board." Even if the bristles 30 of Kiefer could be reasonably interpreted to be "at least partly surrounded by walls forming a cleaning case," which is not believed to be the case, they cannot be reasonably interpreted to be contacting "just the edge portion of said board when the edge portion of the board is positioned for cleaning." In this respect, and even without considering the irrational reasoning offered at page 4 of the outstanding Action as to positioning only an edge in the apparatus or withdrawing a sheet when only the front edge has been cleaned, it is clear that bristles 30 are taught to be designed to function as curtains, not as dust removing bristles. See col. 3, lines 18-29 as follows:

A pair of opposed curtain or sash means 30 are disposed in straddling relation about the aforesaid extending peripheral region of abrasive means 22. Each curtain means 30 is attached to and carried on the leading edge of cowling 20 and is likewise coextensive with the broadside or longitudinal length of device 10 and hence stock 14. As shown, means 30 projects from cowling 20 into contact with and wiping against stock 14. Means 30 will preferably comprise an array of bristles, but other constructions are suitable such as a synthetic sash formed with perforations or a porous stiffened fabric such as a specially treated felt or pile fabric.

In addition, to whatever extent that the outstanding Action suggests that Kiefer "is capable of cleaning just and [sic] edge of a board (either by positioning only the edge within the apparatus or by cleaning only the leading edge and then removing the board therefrom) to remove dust" (emphasis added), these are improper Examiner (not prior art) suggested modifications to the intended operations taught by Kiefer at col. 3, line 64 to col. 4, line 7, as follows:

Application of a negative pressure in housing 18 applies a pressure gradient across stock 14 owing to the relatively higher pressure of the boundary layer extant or captured between the stock and drum 12 when compared to the pressure in the housing and cowling. The pressure differential drives stock 14 against abrasive means 22 causing the stock to distort and conform to a substantial area of the parametric portion of bristles 28 as shown. The distortional or flexural mode of web 14 increases the swept area of same for a given brush diameter when compared to conventional devices.

The facts being relied upon are supposed to be based upon actual reference teachings, not unfounded assumptions and/or speculation. *See In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967) (“The Patent Office has the initial duty of supplying the factual basis for its rejection. It may not ... resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis.”).

Furthermore, in order to insert the flexible web 14 (that cannot be reasonably called a “board,” as noted below) far enough into the housing 18 for actual cleaning by cleaning bristles 28 and then to pull it back out so other parts are not cleaned would require the housing be made of a transparent material or some other modification to Kiefer not explained in the outstanding Action. On the other hand, trying to bring just one side edge of a flexible web 14 would defeat the purpose of Kiefer in making the cleaning area coextensive with the longitudinal length of drum 12 and, hence, coextensive to the width of stock 14 as note at col. 2, lines 58-61. Any proposed modification that would change the basic operating principle of a reference is not an obvious one. *See In re Ratti*, 270 F.2d 810, 813, 123 USPQ 349, 352 (CCPA 1959). Moreover, reference modifications that would render a reference unsatisfactory for its intended purpose are also not obvious. *See In re Gordon*, 733 F.2d 900, 221 USPQ 1125, 1127 (Fed. Cir. 1984).

As noted above, the edge of concern in claim 25 is “an edge portion of a board.” While the term “board” has many meanings as shown at page 192 of the American Heritage Dictionary, Second College Edition, the customary meaning most consistent with the disclosure in this application would be “2. A **flat piece** of wood or similarly **rigid material** adapted for a special use” (emphasis added). *See Renishaw PLC v. Marposs Societa per Azioni*, 158 F.3d 1243, 1250, 48 USPQ2d 1117, 1122 (Fed. Cir. 1998) (“Where there are several common meanings for a claim term, the patent disclosure serves to point away from the improper meanings and toward the proper meanings.”)

Whatever else can be said as to the nature of the material of stock or web 14 of Kiefer, it cannot be reasonably be alleged to be like the claimed “board” that has to be a “piece of ... **rigid material.**” Further in this regard, there is nothing that can be reasonably called “rigid” about stock 14 of Kiefer given the intended operation of the Kiefer cleaning device as disclosed at col. 3, line 64-col. 4, line 7 that is set forth above.

In addition, while Kiefer teaches the use of corona discharge devices 32 and 34, it is relative to them being positioned on the leading (device 32) or trailing (device 34) edges of the cowling 20 “outboard of curtains 30” (col. 3, lines 31-32) so that device 32 will have a discharge that is “directed onto the surface of web 14” (col. 3, lines 36-37), and device 34 will have a discharge “directed onto the stock or web surface as it leaves deice 10” (col. 3, lines 39-40). Thus the outstanding Action commits clear error in suggesting that Kiefer teaches “an ion injection device (32,34) for directing ionized gas **toward the bristles of the brush**” (emphasis added, see lines 5-6 of item 8 on page 4 of the outstanding Action).

Further in this last regard, the whole purpose for ion injection device 32 is to neutralize the localized electrostatic charge on the surface of the stock to be cleaned, see col. 3, lines 62-64. The whole purpose of ion injection device 34 is to neutralize any charge on the stock induced by the cleaning device 22 or curtains 30 as noted at col. 4, lines 41-50. Clearly, there is no teaching or suggestion of directing the ion discharge from either the device 32 or the device 34 **toward the bristles of the brush when the bristles are in contact with the edge portion of the board to remove the dust attached to the edge portion of the board**” (emphasis added) as specified by independent claim 25.

To whatever extent that Ernst and Clarke teach the use of an “air knife” and Ernst specifically teaches first and second air knives 36, 38 being used so that an ion cloud from an associated ion emitter can be better transported to neutralize the surface of the device to be cleaned, neither Ernst nor Clarke cure the above-noted Kiefer deficiencies. In this last respect, neither Ernst nor Clarke teach or suggest directing a curtain of air entraining ions from a discharge device is to directed **toward the bristles of the brush when the bristles are in contact with the edge portion of the board to remove the dust attached to the edge portion of the board**” (emphasis added).

In addition, the reference to Fig. 10 of Ernst as showing alternate discharge devices 42 and 40 is a clear error as 40 and 42 are disclosed by Ernst to be “exhaust ports,” see the parts list at the bottom of col. 10 and col. 7, line 18. Moreover, Fig. 10 of Ernst also lacks even a hint of a brush with cleaning bristles contacting anything.

Accordingly, even if the artisan were to add the air knives taught by Ernst or Clarke to work with the corona discharge devices 32 and 34 of Kiefer to enhance the ion discharge from

devices to the surface of the target as taught by Ernst, the combination of the teachings relied on from these references would not teach or suggest all of the subject matter of claim 25.

Therefore, independent claim 25 clearly recites features not taught or suggested by Kiefer considered alone or together with Ernst and/or Clarke. Consequently, the rejection of independent claim 25 as being unpatentable over Kiefer in view of Ernst and Clarke under 35 U.S.C. § 103(a) is clearly without merit and should be withdrawn.

As dependent claims 26, 28, and 31 all ultimately depend from and, thus, include all limitations of parent independent claim 25, these dependent claims patentably define over Kiefer considered alone or together with Ernst and/or Clarke for at least the same reasons that parent independent claim 25 does. Thus, the rejection of these dependent claims as being 25 as being unpatentable over Kiefer in view of Ernst and Clarke under 35 U.S.C. § 103(a) is clearly unreasonable and should also be withdrawn.

### **B. Claim 27**

Turing to claim 27 rewritten in independent form and also rejected on the same rationale as independent claim 25, independent claim 27 not only includes all the subject matter noted above as to independent claim 25, it adds a requirement for a new element to perform a new cleaning function in terms of reciting “a source of compressed air having a nozzle member structured to emit compressed air so that the compressed air flows along a bottom portion of the cleaning case forming a receiving member extending toward the discharge opening so that dust collected on the receiving member is blown by the compressed air toward the discharge opening.” Item 5 on page 3 of the outstanding Action suggests that the clear recital of this “source of compressed air having a nozzle member structured to emit compressed air so that the compressed air flows along a bottom portion of the cleaning case” has been ignored because it was alleged that this limitation of providing air flow “along a bottom portion of the cleaning case” lacked support in the Application as filed.

This admitted ignoring of the recited claim 27 feature as to air flow along a bottom portion of the cleaning case because it is alleged not to be supported by Application as filed is a clear error as evidenced by MPEP § 2143.03 II that specifically notes that:

When evaluating claims for obviousness under 35 U.S.C. 103, all the limitations of the claims must be considered and given weight, including

limitations which do not find support in the specification as originally filed (i.e., new matter). *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983) *aff'd mem.* 738 F.2d 453 (Fed. Cir. 1984).

Therefore, independent claim 27 also clearly recites features not taught or suggested by Kiefer considered alone or together with Ernst and/or Clarke. Consequently, the rejection of independent claim 27 as being unpatentable over Kiefer in view of Ernst and Clarke under 35 U.S.C. § 103(a) is clearly without merit and should also be withdrawn.

#### **C. Claims 29 and 30**

Item 10 on page 5 of the outstanding Action presents a rejection of claims 29, 30, 35, 36, and 38 under 35 U.S.C. § 103(a) as being unpatentable over Kiefer in view of Ernst and Clarke in further view of Sroka (U.S. Patent No. 3,915,737). This rejection is respectfully traversed.

It is first noted that claims 29 and 30 depend directly from independent parent claim 25. It is also noted that Sroka is cited as to the subject matter added by dependent claim 29 as to a brush positioning device 26 and as to the subject matter added by dependent claim 30 as to the nature of the bristles. It is further noted that to whatever extent that Sroka does or does not teach these added dependent claim features, it is clear that Sroka does not cure the deficiencies noted above as to the reliance on Kiefer in view of Ernst and Clarke with respect to independent parent claim 25. Accordingly, dependent claims 29 and 30 are respectfully submitted to patentably define over the applied references for at least the same reason that parent independent claim 25 does. Therefore withdrawal of this improper rejection of dependent claims 29 and 30 under 35 U.S.C. §103(a) as being allegedly unpatentable over Kiefer in view of Ernst and Clarke in further view of Sroka is respectfully requested.

#### **D. Claims 35, 36, and 38**

In addition to presenting the above-noted rejection of dependent claims 29 and 30, item 10 on page 5 of the outstanding Action also rejects independent claim 35 and claims 36 and 38 under 35 U.S.C. § 103(a) as being unpatentable over Kiefer in view of Ernst and Clarke in further view of Sroka. This rejection is also respectfully traversed.

Turning to independent claim 35, it is noted that this independent claim is like independent claim 25 in terms of also requiring, among other things, "an ion injection device

receiving a compressed gas and positioned to provide an ionized flow of the compressed gas toward the brush hair that includes conductive fiber when the brush hair that includes conductive fiber contacts the edge portion of the device at the cleaning position.” As was noted above relative to dependent claim 30, to whatever extent that Sroka may or may not teach the bristles being of hair and including conductive fiber, it is again clear that Sroka does not cure the deficiencies of Kiefer in view of Ernst and Clarke as to this subject matter for the reasons set forth above as to the similar limitations of claim 25.

Accordingly, it is respectfully submitted that independent claim 35, and claims 36 and 38 that depend on independent claim 35, clearly patentably define over the applied references as noted above. Consequently, it is respectfully submitted that this rejection of claims 35, and the rejection of claims 36 and 38 that depend on claim 35, under 35 U.S.C. § 103(a) as being unpatentable over Kiefer in view of Ernst and Clarke in further view of Sroka should also be withdrawn.

#### **E. Claims 32, 47, and 48**

Item 15 on page 7 of the outstanding Action presents a rejection of claims 32, 47, and 48 under 35 U.S.C. § 103(a) as being unpatentable over Kiefer in view of Katsuura et al. (JP 2005-211722, hereinafter “Katsuura”). This rejection is respectfully traversed.

With regard to Katsuura, JP 2005-211722, this reference has a publication date of August 11, 2005. The U.S. equivalent (2008/0028551) of the Japanese Katsuura reference has a 35 U.S.C. § 102 (e) date of August 3, 2006. Therefore, neither Katsuura, JP 2005-211722 nor the U.S. equivalent (2008/0028551) of the Japanese Katsuura reference qualify as prior art as this Application has a 35 U.S.C. § 371 PCT filing date of February 8, 2005, see 35 U.S.C. § 363.

Consequently, the rejection of claim 32, 47, and 48 as being unpatentable over Kiefer in view of Katsuura under 35 U.S.C. § 103(a) is clearly without merit and should be withdrawn.

#### **F. Claim 32**

Item 18 on page 8 of the outstanding Action presents a rejection of claims 32, 47, and 48 under 35 U.S.C. § 103(a) as being unpatentable over Kiefer in view of Motoda et al. (U.S. Patent No. 6,058,544, “Motoda”). This rejection is respectfully traversed.

The outstanding Action alleges (at the bottom of page 8) that “Kiefer discloses a brush (30) fixed in position in a cleaning case (18) having a gap that is capable of receiving just an edge of a device (either by positioning only the edge within the apparatus or by cleaning only the leading edge and then removing the board therefrom) to remove dust.”

First, it is noted that the proposed modification to the operation Kiefer based upon the assertion of capabilities as to receiving only edge portions of the web 14 is completely contrary to the above noted Kiefer operation discussed at col. 3, line 64 to col. 4, line 7, of Kiefer as noted above as to the rejection of claim 25.

In addition, and as was also noted above as to the rejection of claim 25, it is clear that bristles 30 of Kiefer are taught to be designed to function as curtains, not as dust removing brush bristles. See col. 3, lines 18-29 of Kiefer set forth in full above. On the other hand, the Kiefer cleaning brush has cleaning bristles 28 that are mounted on and rotate with drum 24 to remove dust from the surface of a very flexible medium 14 that has nothing in common with a “board,” as further discussed above relative to the rejection of independent claim 25.

Thus, the interpretation apparently offered in the outstanding Action as to Kiefer teaching a cleaning case with a fixed position brush that will brush “the edge portion of said board to remove dust attached to the edge portion of the board” (emphasis added) relative to curtain brush 30 and flexible web element 14 are again believed to be stretched far beyond the elastic limit of anything reasonable as explained above as to the rejection of independent claim 25. Also unreasonable is the assertion that Kiefer teaches the independent claim 32 recited cleaning case “gap through which the edge portion is inserted to position the edge portion inside the cleaning case.” The only entry into the housing 18 of Kiefer is intentionally covered by the curtain forming brushes 30 of Kiefer. Thus, no gap (open space) through which an edge portion could be inserted is taught by Kiefer.

Turning to Motoda, col. 17, line 53 to col. 18, line 9 teach scrubbing the back surface of a substrate using a washing liquid and back-and forth moving scrubbing brush. It is unclear how page 9 of the outstanding Action can suggest that “Motoda discloses a similar device” to that of Kiefer who only uses dry brushing of a top surface of a flexible web to remove dust from just the top surface. To whatever extent the Motoda substrate could be heavy and not easily moved, this characterization at page 9 of the outstanding Action clearly has no applicability to the Kiefer

device that will clean only the top surface of a flexible material light enough for the operation of the Kiefer cleaning device disclosed at col. 3, line 64-col. 4, line 18.

Clearly, modifying Kiefer by the actual teachings of Katsuura will not achieve the claimed subject matter. Just as clearly, the modification of either reference in light of the other cannot be fairly characterized as involving the simple substitution of known elements from one of these references to the other. Also missing is the required showing of “some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness” . . . .

*KSR Int'l v. Teleflex Inc.*, 127 S.Ct. 1727, 82 USPQ.2d 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir 2006)).

What is further missing from the outstanding Action is the analysis under MPEP § 706.02(j) that requires the Examiner to identify “the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter” in order to properly support a rejection under 35 U.S.C. § 103(a). The PTO reviewing court has further made it clear that the PTO may not simply assert conclusions as to modifications; instead, it must provide a “full and reasoned explanation.” See *In re Lee*, 61 USPQ2d 1430, 1432-33 (Fed. Cir. 2002). Reliance on an undocumented subjective conclusion that two seemingly disparate references are similar is contrary to established case law requiring the PTO to present factual evidence, not subjective conclusions. See *In re Zurko*, 258 F.3d 1379, 1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001) (“With respect to core factual findings in a determination of patentability, however, the [PTO] . . . must point to some concrete evidence in the record in support of these findings.”) and *In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967) (“The Patent Office has the initial duty of supplying the factual basis for its rejection. It may not . . . resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis.”).

Also missing from the action is the required explanation as to how either one of these clearly disparate references could be modified by the teachings of the other without completely changing the operation of the device being modified so as to render it completely unsatisfactory to operate to achieve the intended purposes disclosed by each reference. Note again the above discussed *Ratti* and *Gordon* decisions.

Therefore, independent claim 32 clearly recites features not taught or suggested by Kiefer considered alone or together with Motoda. Consequently, the rejection of independent claim 32

as being unpatentable over Kiefer in view of Motoda under 35 U.S.C. § 103(a) is clearly without merit and should be withdrawn.

**G. Claims 47 and 48**

Item 20 on page 9 of the outstanding Action presents a rejection of claims 47 and 48 under 35 U.S.C. § 103(a) as being unpatentable over Kiefer in view of Motoda in further view of Matsuno et al. (U.S. Patent Application Publication No. 2001/0054210, hereinafter “Matsuno”). Matsuno is cited as to the subject matter added by dependent claims 47 and 48 to independent claim 32 and does not cure the deficiencies noted above as to the reliance on Kiefer in view of Motoda. Accordingly, claims 47 and 48 patentably define over the applied references for at least the same reason that parent independent claim 32 does and withdrawal of this improper rejection of claims 47 and 48 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Kiefer in view of Motoda in further view of Matsuno is respectfully requested.

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Amendment dated August 18, 2010.  
Reply to Office Action of May 24, 2010

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### CONCLUSION

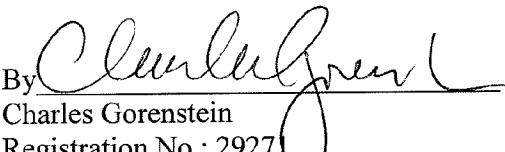
All of the stated grounds of rejection have been respectfully traversed. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

Should there by an outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Raymond F. Cardillo, Jr., Registration No. 40,440 at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: August 18, 2010

Respectfully submitted,

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Attachments: Substitute Specification (Clean Copy)  
Substitute Specification (Marked-up Copy)

